Chesapeake shall open on signal, except:

(1) From 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the drawbridge may not open the passage of recreational vessels.

(2) Vessels in an emergency involving danger to life or property shall be passed at any time.

* * * * *

Dated: June 14, 1995.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 95–17874 Filed 7–19–95; 8:45 am]

BILLING CODE 4910–14–M

46 CFR Parts 25, 26, and 162

[CGD 74–284]

RIN 2115–AA08

Fixed Fire-Extinguishing Systems for Pleasure Craft and Other Uninspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: This rulemaking was initiated to establish standards and procedures for approving gaseous-type fixed fire-extinguishing systems for pleasure craft and other uninspected vessels. At the time, most fixed systems for pleasure craft used Halon 1301 and Halon 1211 as the extinguishing agents, and several of the provisions of this rulemaking specifically would have allowed (though not required) the use of halons. Since that time, halons have been identified as an ozone-depleting substance; on January 1, 1995, their production was terminated. The Coast Guard considered redrafting this rulemaking to allow the use of halon replacement gases instead of halons. However, the development and evaluation of these gases is incomplete. The Coast Guard has decided to withdraw this project. It may initiate new rulemaking under a new docket-number when the development and evaluation are complete.

DATES: This withdrawal is effective on July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Klaus Wahle, Project Manager, Office of Marine Safety, Security, and Environmental Protection (G–MVI–3), (202) 267–1444.

SUPPLEMENTARY INFORMATION: On January 9, 1991, the Coast Guard published a Supplementary Notice of Proposed Rulemaking (SNPRM) [56 FR 829] titled ''Fixed Fire-Extinguishing Systems for Pleasure Craft and Other Uninspected Vessels'' [CGD 74–284]. The SNPRM contained approval standards for voluntary fixed systems using halon and carbon dioxide, and depended in large part on standards of industry such as ANSI/UL 1058 of Underwriters Laboratories, Inc., titled ''Halogenated Agent Extinguishing System Units'' (Second Edition; October 6, 1989). The termination of halon production due to environmental concerns and the development and evaluation of halon replacement gases will require some changes in the rulemaking to delete references to halons and address the properties of the new gases instead. Since several of these gases are still being developed and evaluated, not enough information is available to redraft the approval standards contained in the SNPRM.

The Coast Guard has therefore determined that the best course of action at this point is to withdraw this rulemaking, and examine the necessity of a distinct rulemaking at some point in the future. The Coast Guard withdraws all rulemaking under docket-number 74–284.

Dated: July 7, 1995.

G.N. Naccara,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–17875 Filed 7–19–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD24

Endangered and Threatened Wildlife and Plants; Proposed Rule Exempting Certain Small Landowners and Low-Impact Activities From Endangered Species Act Requirements for Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to amend the general regulations for threatened species (50 CFR 17.31) under the Endangered Species Act of 1973 by establishing a new exemption for certain small landowners and low impact activities that are presumed to individually or cumulatively have little or no lasting effect on the likelihood of survival and recovery of threatened species of fish and wildlife, and, therefore, have only minor or negligible adverse effects. This exemption would be applied to all threatened species of fish and wildlife listed in the future unless the Service concluded for a given species that the exemption was inappropriate because its individual or cumulative biological effects would not be insignificant for the species as a whole. In such a case, the Fish and Wildlife Service would issue a ''special rule'' for the species that would contain either no small landowner or low-impact activities exemptions or some reduced variation of those exemptions. This proposed rule also seeks to establish an additional general exemption for activities that are conducted in accordance with a State-authorized or -developed habitat conservation strategy for a threatened species which the Service has found to comprehensively address the threats to the species and promote the species' survival and recovery.

DATES: Comments on this proposal must be received by September 18, 1995, in order to be considered in the final decision on this proposal.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240. Comments and materials received will be available for public inspection, by appointment, during normal business hours in Room 452, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, at the above address (703/358–2171; facsimile 703/358–1735).

SUPPLEMENTARY INFORMATION:

Background

On September 26, 1975, the U.S. Fish and Wildlife Service (Service) adopted general regulations in 50 CFR Part 17 governing the way endangered and threatened species would be regulated under the Endangered Species Act of 1973, as amended (Act). Section 9 of the Act prohibits by statute the ''take'' of federally listed endangered species. However, Congress deferred to Secretarial discretion the issue of how ''threatened'' species would be treated with respect to the section 9 take prohibition. In the 1975 regulations (50 CFR 17.31), the Service generally adopted for threatened species of fish and wildlife a blanket set of prohibitions identical to the prohibitions the Act itself applied to

endangered species. Under section 17.31, if the Service concluded for a given threatened species that the general prohibitions were inappropriate or inadequate, the Service committed to issuing a ''special rule'' under section 4(d) of the Act containing different prohibitions and exceptions tailor made for the threatened species in question. However, the Act does not make this option available to species listed as endangered.

Underlying this approach taken in 1975 was the general assumption that the majority of threatened species of fish and wildlife would require the same level of protection against takings afforded to endangered species, and that only a small number of threatened species would require specialized regulatory attention. For the anticipated small handful of threatened listings where the ''one size fits all'' approach to takings prohibitions would not work, additional time and effort would be spent developing a tailor made special rule. This approach with regard to the taking of threatened fish and wildlife was not extended to the protection of threatened plants because as a general matter the taking of plants is not a prohibited activity on private lands.

Currently, a total of 111 fish and wildlife species endemic to the U.S. are listed as threatened. An additional six fish and wildlife species are proposed for listing as threatened. Thus, during the past twenty years of implementing the Act, the Service has gained significant experience and insight into the management and conservation of threatened species. The Service has found in some cases that existing prohibitions have been unnecessarily restrictive or too inflexible to encourage creative conservation opportunities for threatened species. Further, the Service has found that these prohibitions may ''over-regulate'' certain activities which, on the whole, are otherwise insignificant for some species, and in some cases may actually generate disincentives for private landowner support for threatened species conservation. Both of these situations have led to considerable anxiety on the part of private landowners, particularly smaller landowners who believe that they have little to contribute to threatened species conservation.

With regard to small landowners and small-scale or low-impact activities, the Service now believes that it is no longer necessary, appropriate, or advisable to maintain a regulatory presumption that isolated takings associated with such activities must be strictly regulated or prohibited for the conservation of all threatened species. For some threatened species, the opposite is true.

For example, in the case of occupied household dwellings used solely for residential purposes, the Service has found that there are few routine yard maintenance or construction activities which are likely to adversely affect threatened species in any meaningful way. Moreover, the relative habitat value of residential property is very limited in most cases. Small-scale land use disturbance activities are another category of events which are likely to generate little or no lasting effect on the likelihood of the survival and recovery of a number of threatened species, especially species which are wide ranging. The Service believes that for many threatened species, a variety of small-scale activities might technically result in an isolated incidental ''taking'' of a species without individually or cumulatively having a significant adverse effect upon its long-term conservation.

In light of the above considerations, the Service now proposes to amend 50 CFR 17.31 by creating a new set of presumptions which would exempt certain small landowners and categories of small-scale or negligible-impact activities from possible incidental take liability for threatened species. Upon final adoption of this amendment, the Service would automatically exempt the delineated categories of activities from the incidental taking restrictions of future threatened species listings, unless for a given proposed listing, the Service concluded that the individual or cumulative adverse effects were likely to be significant. In such a case, the Service would issue a special rule which would modify the proposed exemptions as necessary and otherwise assure that any individual or cumulative effects would be insignificant.

The Service anticipates three different scenarios for implementing the new small landowner and low-impact exemption regulation, depending on where a species is in the listing process. The three situations would involve species that are listed as threatened at some time in the future after the possible adoption of these new exemptions; species that are proposed for listing as threatened and are presently in the listing process; and species that are already listed as threatened. In the first situation, the new exemptions in 50 CFR 17.31, if ultimately adopted, would automatically apply to any species listed as threatened in the future except where the adverse effects of the exemption would be significant.

The second situation involves the Service's interim application of the proposed exemptions, pending final adoption of an amendment to 50 CFR 17.31. During this interim period, the Service will consider the application of the exemptions on a case-by-case basis for currently proposed threatened species listings, and will issue a proposed special rule to adopt those exemptions for any species where it is found to be warranted. This could result in two opposite uses of special rules for threatened species with regard to small landowner and low-impact exemptions: once the new exemptions are finalized and formally inserted into 50 CFR 17.31, a special rule would be used to ''opt out of'' (i.e., not to adopt) the new exemptions where necessary. Pending the final amendment of 50 CFR 17.31, however, a special rule would be needed to ''opt in to'' (i.e., to adopt) the proposed exemptions for a new threatened species listing. In either situation, the special rule would fully explain the circumstances and the rationale for its treatment of small landowner and small impact activities as they relate to incidental take prohibitions for the affected threatened species.

The third situation involves the 111 fish and wildlife species currently on the threatened species list. These species were placed previously on the list without specific consideration of a small landowner or low-impact exemption. The Service intends to complete within 90 days a preliminary assessment of all currently listed threatened species of fish and wildlife to assess the extent to which the new proposed exemptions could be applied. In those instances where such application is warranted, the Service would propose subsequent special rules to address currently-listed threatened species.

Section By Section Analysis

Subsection (a) *General.*—The current language of subsection (a) states that with three expressly noted exceptions, all of the prohibitions applicable to endangered species are made applicable to threatened species of fish and wildlife. The proposed rule would make a technical addition to the list of exceptions by adding a reference to ''subsection (d)'' which would contain the new proposed exemptions for small landowners and small-scale and negligible impacts. The net effect of this change would be to establish a new presumption for future threatened species listings that the regulatory prohibition against takings would not apply to activities conducted in

accordance with the new exemptions in subsection (d). The proposed rule also adds the title, ''General,'' to this subsection.

Subsection (b) *Cooperative agreements*. This subsection does not propose any changes from the existing text in 50 CFR 17.31(b) except for the addition of the title, ''Cooperative Agreements.''

Subsection (c) *Special rules*. This subsection proposes to make only technical changes to the current text of 50 CFR 17.31(c) to clarify that a special rule may apply to only portions of a species range. If a special rule applies to only part of the species range, the prohibitions in subsections (a), (b), and (d) would apply in portions of the range not covered by the special rule. The subsection would also retain the provisions of the current text of 17.31(c) which indicates that where a special rule applies, the terms of the special rule would displace any of the general provisions of 50 CFR 17.31 (a), (b), and (d). Thus, if the Service concluded that it was biologically inappropriate to apply to a given threatened species any of the new exemptions established in subsection (d) for small landowners or low impacts, the Service would issue a special rule for that species that would eliminate or amend the language in subsection (d) as necessary to protect that particular species. All or part of the proposed exemptions could be amended in such cases. The proposed rule also adds the title, ''Special rules,'' to this subsection.

Subsection (d) *Landowner exemptions*.—A new subsection (d) states that any person may take a threatened species in the course of an otherwise lawful activity conducted by the landowner or with the landowner's permission in three situations involving the use of private property. The three exceptions apply to single household dwellings on 5 acres of land or less, low-impact activities that result in the cumulative disturbance of less than 5 acres of land, and activities that otherwise are found by the Service to be negligible in their effects upon a threatened species.

These exemptions or exceptions would only be applicable to ''otherwise lawful activities''. This phrase would limit their application to land use activities which were conducted in accordance with all Federal, state and local land use or environmental laws (e.g. water quality standards, pesticide use, zoning).

Paragraph (d)(1) proposes an exemption for activities which take place around a private residence on a parcel of land of 5 acres or less. In particular, the exemption would apply to those activities conducted on a contiguous parcel of land of 5 acres or less which was occupied by a single household structure or dwelling. An additional requirement would be that the parcel of land surrounding the dwelling be used principally for residential, noncommercial purposes. The limitation on noncommercial activities is intended to be applied to the use of the land surrounding the dwelling, as opposed to limited commercial activities within the residential dwelling itself. Thus, the proposed exemption would still apply in the situation where a small business was run out of a home or one or more rooms were rented out to someone outside of the immediate family of the landowner. It is the intention of the Service that this exemption would run with the land and the residential property, and transfer from owner to owner.

As previously noted, the Service believes that this exemption is justified because residential property generally has limited habitat value for listed species. Moreover, the types of activities associated with non-commercial dwellings such as maintenance, enhancement, or the general use and enjoyment of such tracts and their associated facilities often will often have no lasting effect upon the likelihood of the survival and recovery of threatened species.

Paragraph (d)(2) would propose an exemption for activities that cumulatively disturb over time no more than 5 total contiguous acres within a given parcel of land. Like the above exemption for residential households, this exemption would run with the land from owner to owner until the area of disturbance cumulatively totaled 5 contiguous acres. This exemption would apply regardless of whether the disturbance activities were commercial or noncommercial in nature.

This provision should provide considerable relief to small landowners and small businesses, since it would allow for the clearing and development of a parcel of land, so long as the cumulative disturbance over time was limited to 5 total contiguous acres or less. This would allow a property owner, for example, to construct a small to mid-sized business establishment or to utilize part of a residential property for income-producing purposes. While a cumulative cap of 5 acres is proposed for the maximum area of disturbance over time, it is not intended to limit the exemption only to people who own less than 5 acres of land in total; a person could own a larger piece of property so long as the total area of disturbance under the exemption was no larger than 5 acres.

It should be noted that these first two exemptions for residential property and 5-acre disturbance are intended to be mutually exclusive and not cumulative in their application. That is, a given landowner can take advantage of either the 5-acre residential property exemption or the 5-acre disturbance exemption, but cannot take both for a combined exemption total of 10 acres. Each property owner would also be limited to applying the exemptions to one contiguous parcel of land as opposed to separate 5-acre exemptions for each parcel of land that they may own.

It should also be noted that while the Service has chosen 5 acres as the maximum acreage for disturbance under the general exemption proposed for 50 CFR 17.31, the Service will consider proposing land use exemptions greater than 5 acres on a species-by-species basis where such acreage is biologically defensible. Thus, for example, the Service proposed an 80-acre small landowner exemption for the northern spotted owl on February 17, 1995. The Service believed that 80 acres was warranted in that particular case because of the adoption of a comprehensive Federal Forest Plan to conserve the owl.

Paragraph (d)(3) sets out a third exemption for all other activities identified by the Service as having negligible adverse effects upon a particular threatened species. In order to provide maximum guidance and assurance to the public, the Service will attempt to identify activities in future listings which, while technically qualifying as a possible take of a threatened species, are deemed to have no lasting effect on the long-term survival and recovery of the species. Land use activities identified under this paragraph will fall into categories which for one reason or another did not fit into the previous two exemptions but were negligible in their impacts nonetheless. Negligible effects activities would be identified on a case-by-case basis either in the final rulemaking listing a threatened species or in a subsequent general notice published in the **Federal Register**. The Service would also be willing to work with individual landowners on a voluntary basis to assess whether or not a particular proposed activity would have only negligible effects, thereby qualifying for this exemption as well. Whether effects are deemed to be negligible would be determined by their impact on the

species as a whole as opposed to any one individual specimen.

Paragraph (d)(4) sets out a fourth exemption which is designed to provide an incentive to encourage the development of State-authorized or -developed comprehensive habitat conservation plans for threatened species. Premised upon the State of California's Natural Community Conservation Planning Program and the Service's special rule for the California gnatcatcher, this exemption would be triggered by a finding published by the Fish and Wildlife Service in the **Federal Register** that a given State has developed an adequate habitat conservation plan for a threatened species that comprehensively addresses the threats to the species within that State and promotes its survival and recovery. Any subsequent land use activity within that State which was in accordance with the approved State habitat plan, would be exempted from any further Federal taking prohibitions for threatened species under the Endangered Species Act. Thus, by taking the initiative and developing a State-authorized or -developed conservation plan, a State could eliminate a separate Federal set of regulatory guidelines which landowners would otherwise have to comply with. Further, this provision could apply to conservation plans developed at the regional or county level so long as such plans comprehensively address the threats to a species throughout its range or the primary portions of its range and are authorized by a State conservation program.

Paragraph (d)(5) contains various provisos limiting the application of the personal residence and 5-acre exemptions set out in paragraphs (d)(1) and (2) of this subsection. The first proviso is designed to clarify, as previously noted, that landowners could take advantage of either the 5-acre residential property exemption or the 5-acre disturbance exemption but not both together for a 10-acre cumulative total. The second proviso is intended to clarify that property owners with multiple ownerships are limited to one exemption for all of their properties and not one exemption per property. The third proviso is designed to avoid the potential abuse of these exemptions through the subsequent subdivision of property into smaller parcels, each qualifying for its own personal residence or 5-acre exemption. In the case of future listings, the Service proposes to bar the application of these exemptions to individual parcels of land where the parcels were subdivided from a larger block of land after the date of proposed listing for the affected threatened species. For any subdivision created after the relevant cut-off date, the 5-acre exemption would apply in aggregate total to disturbances within the subdivision as a whole and not be tallied separately for the individual tracts of land. However, if certain parcels of land had been broken off or subdivided from a larger parcel prior to the proposal to list the species, the personal residence and 5-acre exemptions could still potentially be applied to each individual parcel.

For those species which are already on the threatened species list, the Service would propose to use a different exemption cut-off date to deal with the problem of land subdivision. Rather than use the date of a species' proposed listing, which may have occurred a long time ago, the Service proposes to use March 6, 1995, as the subdivision cut-off point. March 6, 1995 was chosen as the reference cut-off date since it was on that date that Secretary Babbitt announced the decision to authorize personal residence and 5-acre exemptions for threatened species, where appropriate. Thus, for presently listed species, parcels of land divided prior to March 6, 1995, could still qualify individually for an exemption.

The last proviso in paragraph (d)(5) also clarifies that the new exemptions set out in paragraphs (d)(1) and (d)(2) would not immediately and automatically apply to species which were already on the threatened species list as of the date of the finalization of these amendments to 50 CFR 17.31. As previously noted, the Service is beginning an immediate review of the potential effects of these amendments to species which are already listed as threatened and the agency intends to complete a preliminary assessment of this matter within 90 days. The Service will then begin the process of formally amending the existing regulations for those threatened species for whom the exemptions have been found to be appropriate. The Service could publish these proposed exemptions either for individual species or for clusters or groups of species.

Finally, the Service notes that there is nothing in the new proposed exemptions which would preclude a State, or a political subdivision of a State, that is the recipient of a Habitat Conservation Plan (HCP) permit under section 10(a)(1)(B) of the Act, from requiring any landowner within the permit area to pay a fee to contribute to mitigation of impacts resulting from issuance of the permit.

Public Comments Solicited

The Service intends any final action resulting from this proposal to be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. In particular, the Service seeks comments on the extent to which, or under what circumstances, the small landowner and low-impact activity exemptions should be applied to currently-listed threatened species and threatened species listed in the future. Final promulgation of the proposed rule will take into consideration all comments and any information received by the Service. Any information the Service receives during the comment period may lead to a final rule that differs from this proposed rule.

National Environmental Policy Act of 1969 (NEPA)

The Service believes this action may be categorically excluded under the Department's NEPA procedures. (See 516 DM 2 Appendix I Categorical Exclusion 1.10).

Required Determinations

This rule was reviewed under Executive Order 12866. The Fish and Wildlife Service also certifies that the proposed revisions to 50 CFR 17.31 will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Significant adverse economic impacts are not expected as a result of the proposed rule because: (1) The rule is intended to reduce or eliminate altogether regulatory requirements on small entities under the Act with respect to threatened species; and (2) the rule restates internal administrative guidance and revises the regulatory presumption under 50 CFR 17.31 with respect to take of threatened species by small landowner activities, the effects of which will be triggered by future listing decisions under the Act. Also, no direct costs, enforcement costs, information collection, or recordkeeping requirements are imposed on small entities by this proposed rule, nor does the proposed rule contain any recordkeeping requirements as defined by the Paperwork Reduction Act of 1990. Further, this rule does not require a Federalism assessment under Executive Order 12612 because it would have no significant Federalism effects as described in the order. Finally, the Service has determined that the

proposed action qualifies for categorical exclusion under the requirements of Executive Order 12630, ''Government Actions and Interference with Constitutionally Protected Property Rights,'' and preparation of a Takings Implication Assessment is not required. Regulations that reduce Federal restrictions on use of private property are designated as categorical exclusions under this order.

Author

The author of this proposal is Don Barry, Counselor to the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, Washington, DC 20240 (202/208–5347).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subpart D of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.31 is revised to read as follows:

SUBPART D—THREATENED WILDLIFE

§ 17.31 Prohibitions.

(a) *General.* Except as provided for in subpart A of this part, paragraph (d) of this section, or in a permit issued under this subpart, all of the prohibitions and provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).

(b) *Cooperative agreements.* In addition to any other provisions of this part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, and who is designated by his or her agency for such purposes, may, when acting in the course of their official duties, take those threatened species of wildlife which are covered by an approved cooperative agreement to carry out conservation programs.

(c) *Special rules.* (1) Whenever a special rule in § 17.40 through § 17.48 applies to a threatened species of wildlife, none of the provisions of paragraphs (a), (b), or (d) of this section shall apply in those portions of the species' range covered by the special rule. The special rule will contain all of the applicable prohibitions and exceptions for the species: *Provided,* that where a special rule covers only a portion of a species' range, paragraphs (a), (b), and (d) of this section will apply to those portions of the species' range not covered by the special rule.

(2) Whenever the Fish and Wildlife Service determines that the individual or cumulative adverse effects of applying one or more exemptions under paragraph (d) of this section are likely to be significant for a given threatened species, the Fish and Wildlife Service shall issue a special rule for that species which shall contain only such exemptions or prohibitions as are deemed necessary and advisable for the species.

(d) *Landowner exemptions.* Notwithstanding paragraph (a) of this section, any person may take threatened wildlife incidentally in the course of otherwise lawful activities:

(1) Conducted on a contiguous parcel of land of 5 acres or less that is occupied by a single household dwelling and is used principally for residential, noncommercial purposes;

(2) Conducted on a parcel of land that results in the cumulative disturbance of no more than 5 total contiguous acres for the entire parcel;

(3) Identified by the Fish and Wildlife Service at the time of the final listing of the affected threatened species, in a subsequent general notice published in the **Federal Register**, or in a written response to voluntary inquiries from landowners, as likely to have negligible adverse effects upon the species; or

(4) Conducted in accordance with a State-authorized or -developed comprehensive habitat conservation planning program for the affected threatened species of wildlife that has been found by the Fish and Wildlife Service in a notice published in the **Federal Register** to address the threats to the species within that State and to promote its survival and recovery.

(5) Notwithstanding the provisions of paragraphs (d) (1) and (2) of this section, such exemptions shall not apply:

(i) In combination with each other for any one person or ownership and shall be mutually exclusive;

(ii) In any instance to more than one parcel of land per person or ownership;

(iii) In the case of any threatened species of wildlife listed after the date of final rulemaking establishing such exemptions, to individual smaller parcels of land which were subdivided from a larger contiguous parcel of land after the date of proposed listing of the affected threatened species; and

(iv) In the case of threatened species of wildlife listed prior to the date of final rulemaking establishing such exemptions, unless the Fish and Wildlife Service has completed an assessment of the affects of such exemptions upon such species and has published in the **Federal Register** either a specific finding of applicability of such exemptions to such species or a special rule in § 17.40 through § 17.48 of this part, as appropriate, barring the application of those portions of the exemptions which might result in significant adverse effects to such species. For species covered by the provisions of this paragraph (d)(5)(iv), no exemption established under the provisions of paragraphs (d) (1) and (2) of this section shall be extended to individual smaller parcels of land which were subdivided from a larger contiguous parcel of land after March 6, 1995.

Dated: June 14, 1995.

George T. Frampton, Jr,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–17856 Filed 7–19–95; 8:45 am]

BILLING CODE 4310–55–P